

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) DANA LEIGH BARTON,

Plaintiff,

VS.

Case No. 11 CV 619.JED TLW

(1) FRANK J. TOMECEK, JR., M.D.

(2) FRANK J. TOMECEK, M.D., P.L.C.,

**An Oklahoma Limited Liability Company
Professional**

JURY TRIAL DEMANDED ATTORNEY LIEN CLAIMED

(3) OKLAHOMA SPINE AND BRAIN INSTITUTE, L.L.P., an Oklahoma Limited Liability Partnership;

(4) TULSA SPINE AND SPECIALTY HOSPITAL, L.L.C., an Oklahoma Limited Liability Company,

(5) BIOMET, INC., an Indiana Corporation

**(6) BIOMET SPINE, L.L.C., an Indiana
Limited Liability Company,**

(7) BIOMET SPINE, L.L.C., an Oklahoma Foreign Limited Liability Company; and

(8) EBI, L.L.C., a New Jersey Limited Liability Corporation,

Defendants.

**DEFENDANTS FRANK J. TOMECEK, JR., M.D., FRANK J. TOMECEK, M.D., P.L.C.
AND OKLAHOMA SPINE AND BRAIN INSTITUTE, L.L.P.'S
FINAL WITNESS AND EXHIBIT LIST**

WITNESS LIST

No.	Witness	Proposed Testimony
1.	Dr. Frank Tomecek c/o Richards & Connor 525 S. Main St., Suite 1200 Tulsa, OK 74103 918.585.2394	Defendant, will have information regarding his evaluation, assessment, diagnosis, communications, care and treatment of Dana Barton's medical condition, facts and circumstances regarding the allegations contained in Plaintiff's Amended Complaint ¹ and any and all issues related thereto

¹ This witness list is filed based upon the proposed Amended Complaint attached to Plaintiff's Application to file same. We assume filing of the Amended Complaint will be forthcoming, but to date the Amended Complaint has not been filed by Plaintiff.

2.	Dr. Eric Sherburn c/o Richards & Connor 525 S. Main St., Suite 1200 Tulsa, OK 74103 918.585.2394	Examined Dana Barton and referred her to Dr. Tomecek, will have information regarding his evaluation, assessment, diagnosis, communications, care and treatment of Dana Barton's medical condition, facts and circumstances regarding the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto
3.	Barbara Stewart, CFA, LPN c/o Karen Callahan Rodolf & Todd 401 S. Boston Ave., Ste 2000 Tulsa, OK 74102 918.295.2100	This witness assisted Dr. Tomecek during the surgery he performed on Dana Barton and will have information regarding evaluation, assessment, diagnosis, communications, care and treatment of Dana Barton's medical conditions, facts and circumstances regarding the allegations contained in Plaintiff's Amended Complaint, and any and all issues related thereto.
4.	Eddy Berry, RN c/o Karen Callahan Rodolf & Todd 401 S. Boston Ave., Ste 2000 Tulsa, OK 74102 918.295.2100	Circulating nurse who will testify to her communications with Dana Barton regarding the specific procedures to be performed and the informed consent process and documentation.
5.	Becky Doty, RN c/o Karen Callahan Rodolf & Todd 401 S. Boston Ave., Ste 2000 Tulsa, OK 74102 918.295.2100	Pre-op nurse who had communications with Dana Barton to go over the specific procedure ordered by Dr. Tomecek and insured Barton understood the nature of the long procedure and had given informed consent
6.	Jane Konkler, RN c/o Karen Callahan Rodolf & Todd 401 S. Boston Ave., Ste 2000 Tulsa, OK 74102 918.295.2100	Nurse who completed the pre-admission paperwork and will testify to the process for same as it relates to the documentation and consent process leading up to the operative procedure

7.	Cheryl McDonald c/o Karen Callahan Rodolf & Todd 401 S. Boston Ave., Ste 2000 Tulsa, OK 74102 918.295.2100	Will testify to her role in the pre-admission process including, but not limited to, providing Dana Barton with information regarding TSSH being a physician owned facility and other aspects of the process. She will further testify to the documentation she created evidencing that Dana Barton was given this information.
8.	Dr. Linda Anne Hayman c/o Richards & Connor 525 S. Main St., Suite 1200 Tulsa, OK 74103 918.585.2394	This witness will provide expert testimony regarding the radiological studies, pathology related to same, and any other related issues.
9.	Dr. Peter Angevine c/o Richards & Connor 525 S. Main St., Suite 1200 Tulsa, OK 74103 918.585.2394	This witness will provide expert testimony regarding standard of care, Dr. Tomecek's surgery and evaluation and care, recommended treatment, diagnosis and any other related issues.
10.	Deborah Wood OSBI Clinic Administrator c/o Richards & Connor 525 S. Main St., Suite 1200 Tulsa, OK 74103 918.585.2394	This witness may offer information regarding the relationship between the parties, the facts and circumstances surrounding the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto
11.	Terry Woodbeck, CEO TSSH c/o Karen Callahan Rodolf & Todd 401 S. Boston Ave., Ste 2000 Tulsa, OK 74102 918.295.2100	This witness will have information about facts and circumstances concerning the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto as well as address various relationships between the parties
12.	Tracey Troxell PT c/o Karen Callahan Rodolf & Todd 401 S. Boston Ave., Ste 2000 Tulsa, OK 74102 918.295.2100	Physical Therapist who assisted in the care and treatment of Dana Barton and will have information about her interpretation of diagnostic testing, the facts and circumstances concerning the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto

13.	Michelle Green PT c/o Karen Callahan Rodolf & Todd 401 S. Boston Ave., Ste 2000 Tulsa, OK 74102 918.295.2100	Physical Therapist who assisted in the care and treatment of Dana Barton and will have information about her interpretation of diagnostic testing, the facts and circumstances concerning the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto
14.	Jacklyn Jones, NP P.O. Box 325 Caney, KS 67333	This witness assisted in the care and treatment of Dana Barton and will have information about her evaluation, assessment, diagnosis, communications, treatment and care of Dana Barton's medical conditions and the facts and circumstances concerning the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto
15.	Dr. Robert Osborn P.O. Box 826 Independence, KS 67301	This witness assisted in the care and treatment of Dana Barton and will have information about his evaluation, assessment, diagnosis, communications, treatment and care of Dana Barton's medical conditions and the facts and circumstances concerning the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto
16.	Dr. Alan Moskowitz c/o Stoops & LaCourse 8801 S Yale, Ste 420 Tulsa OK 74137 918.744.7100	This witness assisted in the care and treatment of Dana Barton and will have information about his evaluation, assessment, diagnosis, communications, treatment and care of Dana Barton's medical conditions and the facts and circumstances concerning the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto
17.	Dana Barton c/o Stoops & LaCourse 8801 S Yale, Ste 420 Tulsa OK 74137 918.744.7100	This witness will have information regarding her injuries, medical condition, care and treatment, communications, facts and circumstances about the allegations contained in her Amended Complaint and any and all issues related thereto

18.	<p>Jimmye Barton Dana Barton's Mother c/o Stoops & LaCourse 8801 S Yale, Ste 420 Tulsa OK 74137 918.744.7100</p>	<p>This witness will have information regarding assistance she has provided to Dana Barton, communications with Dana Barton or her providers, care and treatment of Dana Barton's medical conditions, injuries, observations, facts and circumstances regarding the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto.</p>
19.	<p>Dr. William Fessler 3400 E. Frank Phillips Blvd Bartlesville, OK 74006 918.331.2424</p>	<p>Prior treating physician who will have information regarding Dana Barton's back pain, provided care and treatment of Dana Barton's medical conditions, injuries, observations, facts and circumstances regarding the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto.</p>
20.	<p>Dr. David King 222 SE Debell Ave Bartlesville, OK 74006 918.331.1040</p>	<p>Prior treating physician who will have information regarding Dana Barton's back pain, provided care and treatment of Dana Barton's medical conditions, injuries, observations, facts and circumstances regarding the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto.</p>
21.	<p>Dr. Tracey White c/o Stoops & LaCourse 8801 S Yale, Ste 420 Tulsa OK 74137 918.744.7100</p>	<p>Treating physician who provided pain management to Dana Barton will also have information regarding care provided, communications with Dana Barton, her medical condition, injuries, observations and any and all issues related thereto.</p>
22.	<p>Dr. Oliver A Cerqueira c/o Jeff Glendening Glendening, McKenna & Prescott 10108 E 79th Street Tulsa, OK 74133 918-494-7037</p>	<p>Prior treating physician who will have information regarding Dana Barton's back pain, provided care and treatment of Dana Barton's medical conditions, injuries, observations, facts and circumstances regarding the allegations contained in Plaintiff's Amended Complaint and any and all issues related thereto.</p>
23.	<p>Daniel Morris, DO c/o Stoops & LaCourse 8801 S Yale, Ste 420 Tulsa OK 74137 918.744.7100</p>	<p>Treating physician who provided pain management to Dana Barton will also have information regarding care provided, communications with Dana Barton, her medical condition, injuries, observations and any and all issues related thereto.</p>

24.	All witnesses listed by Plaintiff in their Initial Disclosures and Pretrial Disclosures not objected to by Defendants	
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EXHIBITS

No.	Document, Exhibit, or Summary of Other Evidence
1.	Medical Records and bills from Oklahoma Spine & Brain Institute and Dr. Tomecek
2.	Medical Records and bills from Tulsa Spine & Specialty Hospital
3.	Medical Records and bills from Dr. Moskowitz
4.	Medical Records and bills from Kansas Surgery and Recovery
5.	Medical Records and bills from Wesley Medical Center and Wichita Surgical Specialists
6.	Medical Records and bills from Kansas Pain Specialists
7.	Medical Records and bills from Jane Phillips Medical Center
8.	Medical Records and bills from Dr. Osborn
9.	Medical Records and bills from Dr. Fessler, Jackie Jones and Janice Shippy
10.	Medical Records and bills from Bartlesville Physical Rehabilitation
11.	Medical Records and bills from Dr. David King
12.	Medical Records and bills from Pain Management of Tulsa
13.	Medical Records and bills from Tulsa Pain Consultants
14.	Medical Records and bills from Coffeyville Regional Medical Center
15.	All pharmacy records and bills from Caney Drug, Sedan Pharmacy, Walgreens, Walmart, Olympia, Med Park Center Rx and The Prescription Shop
16.	All records from Pharmacists Mutual
17.	Medical Records and bills from Cedarville Clinic, Coffeyville Family Practice and Tall Grass Rural Health Clinic
18.	Pain charts and diagrams of Dana Barton
19.	All radiological studies and images including CT, X-rays, myelograms, and MRIs from JPMC, TSSH, OSBI, Kansas Surgery and Recovery Center, Wesley Medical Center, Wichita Radiological Group, Radiological Services, Inc.
20.	Tulsa Spine & Specialty Hospital Bill
21.	Records from Blue Cross Blue Shield of Kansas
22.	Social Security Disability file of Dana Barton
23.	All medical literature relied upon by Defendant's expert to be used pursuant to 12 O.S. 2803(18)
24.	Documents relied upon by Plaintiff's experts not objected to by Defendants
25.	Exhibits from the deposition of Dana Barton
26.	Exhibits from the deposition of Dr. Peter Angevine excluding his Rule 26 Report
27.	Exhibits from the deposition of Ralph Scott
28.	Exhibits from the deposition of Dr. Greg Goldstein
29.	Exhibits from the deposition of Dr. Linda Hayman excluding deposition transcripts and her Rule 26 Report
30.	Exhibits from the deposition of Dr. Gery Hsu

31.	Exhibits from the deposition of Dr. Alan Moskowitz
32.	Exhibits from the deposition of Dr. Michael Murphy
33.	Exhibits from the deposition of Lonnie Huff
34.	All exhibits endorsed by Plaintiff not objected to by Defendants
35.	Models, diagrams of relevant anatomy, illustrations and other demonstrative aids

Respectfully submitted,

/s/ Linsey E. Williams

James W. Connor Jr., OBA #12248

Linsey E. Williams, OBA #22102

RICHARDS & CONNOR

525 S. Main Street, 12th Floor

Tulsa, Oklahoma 74103

Telephone: 918/585.2394

Facsimile: 918/585.1449

ATTORNEYS FOR FRANK J.

TOMECEK, M.D., FRANK J. TOMECEK,

M.D., P.L.C. & OKLAHOMA SPINE &

BRAIN INSTITUTE, L.L.P.

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of July, 2013, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of its Notice of Electronic Filing was sent to the following ECF registrants:

Fred E. Stoops, Sr., Esq.

Joel A. LaCourse, Esq.

Patrick H. McCord, Esq.

Stoops & LaCourse, PLLC

8801 S. Yale, Suite 420

Tulsa, OK 74137

ATTORNEYS FOR PLAINTIFF

/s/ Linsey E. Williams

Linsey E. Williams